

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, January 03, 2005

Division One

A103762 -- The People v. Hi Quoc Truong.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A105778 -- George Matei et al. v. Angela Alioto et al.

The order denying arbitration is affirmed. Respondents are to recover their costs on appeal. Ruvolo, J. We Concur: Haerle, J. Acting P.J., Lambden, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 4, 2005

Division One

A107007 -- The People v. Mark W. Allen.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A105148 -- Richard C. Rhodes et al. v. First American Title Insurance Company.

The order and judgment are affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A107318 -- George Hardisty et al. v. Hinton & Alfert et al.

By the Court: It is ordered that the published opinion filed herein on December 8, 2004, be modified as follows: (See order) There is no change in the judgment. Kline, P.J. (Certified for Publication)

A103763 -- The People v. Hector Arriaga.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Tuesday, January 4, 2005 (continued)

Division Five

A103537 -- The People v. Ismael Jordan.

The order is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J.
(Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 5, 2005

Division One

A108019 -- Suzanne M. v. The Superior Court Of Sonoma County; Sonoma County Department of Human Services et al.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 cAL.3D 1012, 1024.)

On November 17, 2004, this court issued a stay of the hearing under section 366.26. By its own terms that temporary stay expires on January 13, 2005. Therefore, our decision is final in this court immediately. (Rule 249(b)(3).) Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A102884 -- The People v. Jesus Jose Morales.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A106153 -- In re Brian C., a Person Coming Under the Juvenile Court Law. The People v. Brian C.

The judgment is affirmed. Stein, J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A107174 -- In re Isaiah P., a Person Coming Under the Juvenile Court Law. The People v. Isaiah P.

The orders are affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Wednesday, January 5, 2005 (continued)

A101665 -- The People v. Taniela Leaaetoe et al.

The judgment as to both defendants is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A106332 -- In re Isaiah H. , a Person Coming Under the Juvenile Court Law. Humboldt County Department of Health and Human Services v. Rachael H.

A108170 -- Tracy Herrin as Guardian Ad Litem for Rachael H. v. The Superior Court Of Humboldt County; Humboldt County Department of Social Services.

The dispositional order is reversed. The petition for extraordinary writ is granted. Let a peremptory writ of mandate issue directing the juvenile court to vacate its order setting a section 366.26 hearing and to ensure that the Department has provided proper notice of the proceedings under the ICWA. If, after receiving proper notice, no tribe intervenes, the juvenile court shall reinstate the dispositional order and the order setting a section 366.26 hearing. (*In re Marinna J. supra*, 90 Cal.App.4th 731, 740, *Dwayne P. v. Superior Court* (2002) 103 Cal.App.4th 247, 261.) This opinion is final immediately as to this court. (Cal. Rules of court, rule 24(b)(3).) Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A105003 -- Karen Swain et al. v. Christian Lewis.

We affirm the trial court's November 25, 2003, order in its entirety. We deny all of appellant's and respondent's other requests, except that we award costs to respondent as the prevailing party. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A105694 -- The People v. Susan R. Dimatteo.

The trial court's denial of defendant's motion to suppress evidence is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Wednesday, January 5, 2005 (continued)

Division Three

A104335 -- The People v. Retinald Maurice Fair.

By the Court: Order Modifying Opinion And Denying Petition For Rehearing [No Change In Judgment]

Upon due consideration, appellant's petition for rehearing is denied. The court orders the opinion filed herein on December 20, 2004 modified as follows: (See order) There is no change in judgment. McGuiness, P.J. (Not for Publication.)

A107367 -- Jeffrey Thomas Gray v. The Superior Court Of Napa County; Medical Board of California.

By the Court: Pursuant to the Supreme Court's order dated December 22, 2004, this court's original opinion filed October 29, 2004, is vacated. Upon due consideration, the request of real party in interest Medical Board of California for a modification of the original opinion, as outlined in a letter dated and filed November 23, 2004, is granted. The clerk of the court is directed to file this court's opinion as modified upon entry of this order. McGuiness, P.J.

A107367 -- Jeffrey Thomas Gray v. The Superior Court Of Napa County; Medical Board of California.

Let a peremptory writ of mandate issue directing respondent court to vacate its May 12, 2004 order prohibiting Gray from practicing as a physician and surgeon. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication)

Division Four

A107119 -- The People v. Duaine Donald Belgarde.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Wednesday, January 5, 2005 (continued)

Division Five

A104955 -- Muzzy Ranch Co., v. Solano County Airport Land Use Commission.

The judgment is reversed. The matter is remanded to the trial court with directions that the court issue a writ of mandate ordering the Commission to set aside its adoption of the 2002 TALUP due to its failure to comply with CEQA. Appellant is awarded its costs on appeal. Gemello, J. We Concur: Stevens, J. , Simons, J. (Certified for Partial Publication)

A103858 -- The People v. Juan Bamaca.

The judgment is reversed and the matter is remanded for resentencing so that the trial court may hold a hearing and exercise its discretion to determine whether the Vehicle Code section 23558 enhancement should be stricken. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 6, 2005

Division One

**A105898 -- In re Tony S., a Person Coming Under the Juvenile Court Law.
The People v. Tony S.**

The findings and dispositional order appealed from are affirmed. Margulies, J.
We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Four

**A106438 -- In re Kelly G., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency v. Summer W.**

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not
for Publication.)

Division Five

**A106637 -- Karli Ann Bobus, a Minor, etc. et al. v. California State
Department Of Motor Vehicles.**

By the Court: Order Modifying Opinion And Certifying For Publication.
The opinion in the above-entitled matter filed on December 16, 2004, was not certified
for publication in the Official Reports. For good cause it now appears that the opinion
should be published in the Official Reports, and it is so ordered. Pursuant to California
Rules of Court, rules 976(b) and 976.1, this opinion is certified for publication.

It is further ordered that the opinion be modified as follows: (See order) This
modification does not effect a change in the judgment. Jones, P.J. (Certified for
Publication)

Thursday, January 6, 2005 (continued)

A105172 -- Brendan Fox v. Gerard H. Davis.

The judgment is affirmed. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, January 7, 2005

Division One

A107829 -- Lisbeth Walczer et al. v. The Superior Court of San Mateo County; Alliance Payment Systems, Inc. et al.

We conclude that the superior court abused its discretion when it conditioned the continuance on imposition of the escrow account.¹ Therefore, let a peremptory writ of mandate issue commanding respondent, Superior Court of San Mateo County, in *Alliance Payment Systems, Inc. v. Lisbeth Walczer et al.* (No. Civ. 431458) to set aside paragraph No. 4 of its order filed July 30, 2004, and direct the immediate release to petitioners of all residuals and commission payments frozen in compliance with that order.

Pending issuance of the remittitur, paragraph No. 4 of the July 30, 2004 “Order Granting in Part Defendants’ Motion to Continue Trial . . .” (freezing and holding future residuals or commission payments accruing on certain specified merchant accounts) is stayed.

The parties shall bear their own costs. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Three

A105633 -- In re Hector A. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jose A. et al.

A106295 -- In re Hector A. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jose A. et al.

¹ Reliable also argues that the superior court erred when it refused to order discovery to remain open, and that it erroneously attributed the age of the case to Reliable. Reliable did not seek a peremptory writ to overturn these rulings, and we decline to address them here, other than to note that such rulings are ordinarily well within the discretion of the trial court.

The orders of the juvenile court from which these appeal were taken are affirmed.
Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday, January 10, 2005

Division One

A106103 -- The People v. Brett D.J. Ownbey.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A106526 -- The People v. Jeff Patrick McNeil.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A104352 -- James Flores v. 24 Hour Fitness.

For the foregoing reasons, the judgment is affirmed. 24 Hour is awarded its costs on appeal. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 11, 2005

Division One

**A106768 -- In re John L., a Person Coming Under the Juvenile Court Law.
The People v. John L.**

Defendant had been adjudged a ward of the court in 2000, after committing a battery on school grounds, and received probation. Several months later defendant admitted a probation violation of failing to attend school regularly and served 30 days in juvenile hall. A few months thereafter he admitted committing five auto burglaries and was placed in the Crossroads Program for 90 days.

In 2001, he was committed to juvenile hall for 45 days after admitting a probation violation for leaving home without permission as a runaway. In the fall of 2001, he was placed in the Camp Glenwood Program after admitting that he again left home without permission for several days and failed to attend school.

In 2002, he escaped from Camp Glenwood and falsely identified himself to a police officer. He was placed in the Project Alert Youth Home in Redding and ordered not to associate with Samuel Lyons, with whom he was with when the robbery of Scally occurred. He absconded from the youth home and was later caught leaving a house he just burglarized. Defendant admitted committing the residential burglary and was placed in the Rite of Passage Program in December of 2002. He successfully completed that program after a year and was transitioned to his father's home.

After listening to defendant's counsel why defendant should not be committed to CYA and reviewing the probation department's social study report, the court committed

the defendant to CYA because of defendant's history and escalating offenses. The court noted that defendant had been offered every program that the county had to offer, and still failed to reform. The period of commitment, 12 years and 8 months, was based on imposition of the upper term of six years for violation of Penal Code section 460, subdivision (a), for burglary of an inhabited dwelling, with consecutive terms of one-third of the midterm for the offenses in the petitions that had been sustained, as set forth in the commitment order filed April 21, 2004. The court imposed a term for violation of Penal Code section 212.5, subdivision (c), second degree robbery, which has a midterm of three years. One-third of the midterm is 12 months, but the order of commitment specified 16 months. The commitment order should reflect a term of 12 years and 4 months. The clerk is directed to make the correction and notify CYA.

Competent counsel represented defendant at all stages of the proceedings. There were no errors at the jurisdictional hearing or in the disposition except for the calculation noted above. The order sustaining the petition is affirmed, and the order committing defendant to CYA is ordered to be amended. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

A105374 -- The People v. Terry D. Amons

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Certified for Publication)

Division Two

A103481 -- People For The Ethical Treatment Of Animals, Inc. et al. v. California Milk Producers Advisory Board

The judgment of the trial court is affirmed. Costs on appeal are awarded to CMAB. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Certified for Publication)

A105299 -- The People v. Paul Eric Shea.

The matter is remanded for resentencing in light of Blakely, supra, 542 U.S. ____ [124 S.Ct. 2531] Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Tuesday, January 11, 2005 (continued)

A104891 -- The People v. Emanuel Simas Carvalho.

The appeal is dismissed, and the judgment of the trial court is affirmed. Ruvolo, J.
We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A102921 -- Alberta O'Brien et al., as Administrators, etc. v. Lowell Thomas et al.

The order appealed from is affirmed. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, January 11, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Allen Reyes, Bailiff.

A105008 James Conway
 v.
 Vernon C. Goins II et al.
Cause called. In pro per appellant James Conway argued. Maxwell Njelita argued for respondents. Cause submitted.

A106827 People
 v.
 Christian Glen Cerelli
Cause called. Barry M. Karl argued for appellant Cerelli. Rene A. Chacon argued for respondent. Cause submitted.

A106010 People
 v.
 Lennies H.
Cause called. Kimberly Fitzgerald argued for appellant Lennies H. Ronald Niver argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A102653 Lisa Mini et al.
 v.
 Dolores Gamba
Cause called. David Ramos argued for appellants Mini et al. Laurie J. Hepler argued for respondent.

The Court recessed at 10:54 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, January 11, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Allen Reyes, Bailiff.

A105431 David D. Brayshaw
 v.
 Terraces of Sausalito Homeowners' Association
Cause called. In pro per appellant David D. Brayshaw argued. Jon B. Eisenberg argued for respondent. Cause submitted.

A105432 David D. Brayshaw
 v.
 Terraces of Sausalito Homeowners' Association
Cause called. In pro per appellant David D. Brayshaw argued. Jon B. Eisenberg argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Sepulveda, J., and Rivera, J.

A107161 Loli Victoria Wang
 v.
 Jackie Lam
Cause called. In pro per appellant Loli Victoria Wang argued. Michael Walker argued for respondent. Cause submitted.

A105616 Lisa Washington
 v.
 Claiborne Sibley
Cause called. In pro per appellant Lisa Washington argued. In pro per respondent Claiborne Sibley argued. Cause submitted.

A101448 Longs Drug Stores California, Inc.
 v.
 Shea Law Offices et al.
Cause called. Tyler M. Paetkau argued for appellants Shea Law Offices et al. Paul Johnson argued for respondent. Cause submitted.

The Court adjourned at 3:15 p.m.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 12, 2005

Division One

A104387 -- The People v. Guy Avila.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A103423 -- The People v. Deron Pierre Kindcaid.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A104711 -- Mar/Dan et al. v. Wells Fargo Bank, N.A., as Trustee, etc.

By the Court: It is ordered that the opinion filed herein on December 15, 2004, be modified as follows: (See order) With the opinion so modified, plaintiffs' petition for rehearing is denied. These modifications do not effect a change in the judgment (Cal. Rules of Court, rule 24©(2)). Kline, P.J. (Not for Publication.)

Division Four

A106944 -- The People v. Gary Arthur Bergenske.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Wednesday, January 12, 2005 (continued)

Division Five

A104887 -- The People v. Kaprice Andre Brothers.

The judgment is reversed, and the matter is remanded to the trial court for possible retrial of the charge under Penal Code section 273.6, subdivision (a). If, within 30 days of the filing of the remittitur the district attorney elects not to retry the charge, then the court shall resentence Brothers, consistent with this opinion, and enter a new judgment. Stevens, Acting P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 12, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuinness P.J., Parrilli J., and C. Turner, Deputy Clerk.

Justice McGuinness announced that the panel for A104126 and A104127 appeals are comprised of Parrilli, J., Corrigan, J and himself, but that Corrigan J. is away from the court and is unavailable for oral argument. All parties were informed that Corrigan J. will have access to and will review the taped proceedings and counsel agreed to waive her personal appearance. The court proceeded with argument.

A104126 In re Elijah S.,

A104127 Hearst Corporation DBA San Francisco Chronicle,

v.

County of San Mateo Human Services Agency,

San Mateo County Times.

Cause called and argued by David Silberman, counsel for appellant, and Erica L. Craven, counsel for respondent. Cause ordered submitted.

A100867 William L Smith, et al.,

v.

Viacom, Inc.,

Cause called and argued by Bryce C. Anderson, counsel for appellant, and Ann Park, counsel for respondent. Cause ordered submitted.

Justice Pollak took his place on the bench.

A105590 Bodega Bay Concerned Citizens,

A105787 v.

County of Sonoma,

Bodega Bay Sunset Property.

Cause called and argued by Neil Baker, counsel for appellant, Rose M. Zoia, counsel for respondent Bodega Bay Concerned Citizens and Arthur J. Friedman, counsel for respondent Bodega Bay Sunset Property. Cause ordered submitted

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Justice McGuinness left the bench.

Justice Parrilli announced that the panel for A104875 is comprised of Corrigan, J, Pollak J., and herself, but that Corrigan J. is away from the court and is unavailable for oral argument. All parties were informed that Corrigan J. will have access to and will review the taped proceedings and counsel agreed to waive her personal appearance. The court proceeded with argument.

A104875 Tim Donnelly,

v.

City and County of San Francisco.

Cause called and argued by Tim Donnelly appellant in pro-per, and Erik A.

Rapoport, counsel for respondent. Cause ordered submitted.

court adjourned

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Thursday, January 13, 2005

Division Two

A104004 -- In re D.S., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. C.K.

The orders appealed from are affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A104902 -- The People v. Thuan Tan Tran.

Accordingly, we affirm the judgment. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A105088 -- In re Romirico Remeidio.

Accordingly, we deny the petition and affirm the judgment of the trial court. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

Division Four

A106827 -- The People v. Christian Glen Cerelli.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A105008 -- James Conway v. Vernon C Goins II et al.

Having received no argument attacking the merits of the summary judgment, we affirm. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Thursday, January 13, 2005 (continued)

A106984 -- The People v. Raul Jesus Dominguez.

The probation conditions, numbers four, five and six, are modified to read:

“Defendant shall not wear any gang-associated clothing or emblems known by him to be gang-related; not possess any gang-related paraphernalia known by him to be gang-related (including but not limited to, gang graffiti, symbols, photographs, members’ rosters, or other gang writings) and not possess any gang-oriented publications known by him to be gang-oriented (including, but not limited to, the magazines *Teen Angels* and *Street Life*); and not acquire any tattoos (permanent or temporary), or any gang-related burns / marks known by him to be gang-related. The term ‘gang’ means a ‘criminal street gang’ as defined in Penal Code section 186.22, subdivisions (e) and (f).” In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, January 13, 2005

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

- A106201 Geoffrey V. White,
v.
Gabe Hammon.
Cause called and argued by Steven S. Lubliner, counsel for appellant, and Geoffrey V. White, counsel for respondent. Cause ordered submitted.
- A105503 The People,
v.
Isaias M.
Cause called and argued by Irma C. Castillo, counsel for appellant, and Christopher W. Grove., counsel for respondent. Cause ordered submitted.
- A106149 The People,
v.
Joseph Wells.
Cause called and argued by Amy Haddix, counsel for appellant, and Anne C. Beles, counsel for respondent. Cause ordered submitted.
- A106149 Ronald Latteri, et al.,
v.
Oakmont Memorial Park.
Cause called and argued by Craig M. Hunt, counsel for appellants, and Kirk J. Wolden, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, January 13, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Swager, J., and Margulies, J.; and B. Robbins, Deputy Clerk.

A104418 Father George Crespín, et al.,
v.
Molly J. Coye, as Director of Department
of Health Services, et al.
Cause called and argued by Douglas Press, counsel for appellants, and
Richard Rothschild, counsel for respondents. Cause ordered submitted.

A102750 In re COSIMA T., et al, Persons Coming
Under the Juvenile Court Law.

Social Services Agency,
v.
June N.
Cause called and argued by Meredith Fahn, counsel for appellant, and
Michael Mazzei, via teleconference, counsel for respondent. Cause
ordered submitted.

Court Adjourned.

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Friday, January 14, 2005

Division One

A105676 -- The People v. Timothy Allen Tillman.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J.
(Not for Publication.)

**A107339 -- In re Daron W., a Person Coming Under the Juvenile Court Law.
The People v. Daron W.,**

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J.
(Not for Publication.)

Division Two

A104960 -- Alan J. Titus et al. v. County Of Marin.

The judgment is affirmed. Homeowners are to pay costs. Lambden, J. We
Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

**A105590 -- Bodega Bay Concerned Citizens v. County Of Sonoma; Bedega
Bay Sunset Property.**

**A105787 -- Bodega Bay Concerned Citizens v. County Of Sonoma; Bedega
Bay Sunset Property.**

The judgment is reversed. Sunset shall recover its costs on appeal. Pollak, J. We
Concur: McGuinness, P.J., Parrilli, J. (Certified for Publication)

Friday, January 14, 2005 (continued)

A104892 -- The People v. Jennifer Michelle Morello.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J.
(Not for Publication.)

Division Four

**A108234 -- Malena B. v. The Superior Court Of Contra Costa County;
Contra Costa County, Children & Family Services Bureau.**

The petition for an extraordinary writ is denied on the merits. (§366.26, subd (*l*); Cal. Rules of Court, rule 39.1A(b).) Our decision is final in this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, January 18, 2005

Division One

A103006 -- The People v. Carolyn Merrett.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A107125 -- The People v. David Vargas.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A104199 -- The People v. Kevin J. Buckley.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A106468 -- David Norwitt et al. v. Henry Lambert et al.

The order denying arbitration is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A106129 -- The People v. Calvin Wallace.

The superior court is ordered to amend the abstract of judgment to reflect that the three-year enhancement imposed pursuant to section 667.5, subdivision (a) is stricken, that defendant's aggregate sentence is 15 years, four months, and to forward a corrected abstract of judgment to the Department of Correction. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Tuesday, January 18, 2005 (continued)

A103676 -- Mahjoba Andar v. Winkle Sandhu et al.

The judgment is affirmed. Defendants shall recover their costs on appeal. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A106167 -- Nina Koepcke et al. v. Bria M. Hallinan et al.

The judgment is affirmed. Ruggieri is awarded costs. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A103374 -- The People v. Billy Joe Rickman.

The case is remanded to the trial court with directions to amend the judgment to award defendant presentence credits as required by the views expressed herein. The judgment is otherwise affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A104835 -- Shelfbond Trust, A.G., Inc. v. Allan Altura et al.

By the Court: Respondents' petition for rehearing and request for judicial notice are denied. McGuiness, P.J.

Division Four

A107161 -- Loli Victoria Wang v. Jackie Lam.

The Court: The order of dismissal is affirmed. Kay, P.J., Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, January 18, 2005 (continued)

A105592 -- Salmon Protection And Watershed Network et al. v. The County of Marin et al.; Joshua Hedlund.

Order Modifying Opinion, Denying Rehearing, And Certifying Opinion For Publication. (See Order) The above modification does not effect any change in the appellate judgment.

The County of Marin's request that the court order rehearing is denied.

The opinion in the above entitled matter filed on December 16, 2004, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Kay, P.J. (Certified for Publication)

A101448 -- Longs Drugs Stores California Inc. v. Mary J. Shea et al.

The order denying the special motion to strike is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Tuesday, January 18, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Lambden, J., and S. Wheeler, Deputy Clerk.

- A105345/
A105948 In re Joshua L., a Person Coming Under the Juvenile Court Law.
The People,
v.
Joshua L.
The People,
v.
Kirsten C.
Cause called and argued by John Jordan, counsel for appellant, Kirsten C., and Martin Kaye, Deputy Attorney General, counsel for respondent. Via teleconference was Francia Welker, counsel for appellant Joshua L. Ms. Welker did not argue on behalf of Joshua L. as she originally filed a Wende brief. On the court's own motion, the cases were consolidated. Cause argued and submitted.
- A104015 The People,
v.
Anthony Raynail Williams.
Cause called and argued by Tara Mulay, counsel for appellant, and Jeremy Freidlander, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A105984 The People,
v.
James Butler.
Cause called and argued by Christopher Gauger, counsel for appellant, and Ronald E. Niver, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A099423/ Anthony Rutledge,

A100456 v.
Seyfarth, Shaw, Fairweather and Geraldson, et al.
Cause called and argued by Samuel Kornhauser, counsel for appellant, and Robert Stringer, counsel for respondent. Cause ordered submitted.

A105463 Mary Carroll,
v.
Orrick, Herrington & Sutcliffe.
Cause called and argued by Randal Matthew Barnum, counsel for appellant, and Patricia Gillette, counsel for respondent. Cause ordered submitted.

A106905 Hebrew Academy of San Francisco et al.,
v.
Regents of the University of California.
Cause called and argued by Paul Kleven, counsel for appellant, and Anne Voights, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J, Lambden, J., Ruvolo, J. and S. Wheeler, Deputy Clerk.

A102434 The People,
v.
Anthony Carter et al.
Cause called and argued by Robert Vallandigham, counsel for appellant Anthony Carter, Oliver Northup, counsel for appellant Pamela Lopez, Catherine McBrien, Deputy Attorney General, counsel for respondent. Cause argued submitted.

At this point of the proceedings, Justice Lambden left the bench and Justice Haerle joined the bench to participate in the last case on calendar.

A103037 The People,
v.
Johnny Jesus Hernandez.
Cause called and argued by Valerie West, counsel for appellant, and Gloria Folger DeHart, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

Court recess until Wednesday, January 19, 2005 at 9:30 a.m..

Wednesday, January 19, 2005

Division Two

A102979 -- The People v. Walter Dean Ernest.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A101620 -- The People v. Anderson P. Thurston.

A106524 -- In re Anderson P. Thurston on Habeas Corpus.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A104157 -- Sacramento County Attorneys Association v. County of Sacramento et al.

The Court: Order Modifying Opinion And Denying Rehearing [No Change In Judgment]. (See Order) There is no Change In The Judgment. Appellant's petition for rehearing is denied. Kline, P.J. (Not for Publication.)

Division Three

A106003 -- The People v. Timothy A. Curtis.

A107953.--. In re Timothy A. Curtis.

The petition for writ of habeas corpus is denied, and the judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J. (Not for Publication.)

A100867 -- William L. Smith, et al. v. Viacom, Inc.

The judgment is affirmed. Plaintiffs shall bear costs on appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A104875 -- Timothy Donnelly v. City And County Of San Francisco.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Wednesday, January 19, 2005 (continued)

A102035 -- Diede Construction, Inc. v. Monterey Mechanical Co.

The Court: Appellant's petition for rehearing solely to revise terms of remand is denied. McGuiness, P.J.

A099005 -- Gainco, Inc. et al. v. PVS Partnership et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A106010 -- In re Lennies H., a Person Coming Under the Juvenile Court Law. The People v. Lennies H.

The order denying the minor's motion to suppress evidence and the juvenile court's jurisdictional and dispositional findings are affirmed. Sepulveda, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A105616 -- In re the Marriage of Lisa and Claiborne S. Lisa W. v. Claiborne S.

The order is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A101448 -- Longs Drugs Stores California Inc. v. Mary J. Shea et al.

The Court: Order Modifying Opinion [No Change In Judgment] (See order) There is no change in the judgment. Kay, P.J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, January 19, 2005

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Haerle, Acting P.J., Lambden, J., Ruvolo, J., and I. Santos, Deputy Clerk.

- A106159 John Wells et al.,
 v.
 Rockwell Automation, Inc.
 Cause called and argued by Lloyd LeRoy, counsel for appellant, and
 Christian Marsh, counsel for respondent. Cause ordered submitted.
- A102835 Thomas A. Evans,
 v.
 Thomas F. Camp.
 Cause called and argued by Howard Melamed, counsel for appellant, and
 Thomas Trapani, counsel for respondent. Cause ordered submitted.
- A105879 Barry C. Delavan,
 v.
 City of Antioch et al.
 Cause called and argued by Neil Helfman, counsel for appellant, and
 Cynthia J. O'Neill, counsel for respondent. Cause ordered submitted.

COURT ADJOURNED.

Thursday, January 20, 2005

Division One

A105503 -- In re I.M., a Person Coming Under the Juvenile Court Law. The People v. I.M.

The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J.
(Certified for Publication)

Division Three

A106868 -- In re James H. et al., a Persons Coming Under the Juvenile Court Law. Contra Costa County Children And Family Service Bureau v. Monica D.

The orders of June 2, 2004 denying Monica's request to reinstate visitation are affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A106570 -- The People v. Gener Alberto Pech-Xicum.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J.
(Not for Publication.)

Division Four

A105196 -- The People v. Edward Stinson.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Thursday, January 20, 2005 (continued)

A095918 -- The State Of California ex rel. Kamala Harris as District Attorney, etc., et al. v. Pricewaterhousecoopers LLP

A097793 -- The State Of California ex rel. Kamala Harris as District Attorney, etc., et al. v. Old Republic Title Company et al.

We affirm the trial court's rulings that the City is a person within the meaning of the FCA and the government's claims did not come within the public disclosure bar of that act. (Nos. A095918, A097793.) We also affirm the comprehensive judgment against Old Republic in its entirety. (No. A097793.) Parties to bear their own costs on that appeal. We reverse the summary judgment in favor of PwC on the government's FCA cause of action, as well as the dismissal of the People's UCL claim following the sustaining of PwC's demurer without leave to amend. (No. A095918.) PwC to pay costs of appeal. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Certified for Publication)

A105406 -- The People v. Harvey Edward Barry.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Division Five

A104822 -- San Francisco Fire Fighters Local 798 v. City And County of San Francisco et al.

The judgment of the trial court is reversed and the case is remanded to the trial court with directions to issue a writ of mandate requiring the City and County of San Francisco and the San Francisco Civil Service Commission to submit the firefighter promotional certification rule to binding arbitration. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication)

A104543 -- In re the Marriage of Judith George and J. Frank George. Judith George v. J. Frank George.

The September 15, 2003 order modifying child support is reversed. On remand, the trial court shall award child support retroactively to Mother according to the guideline. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Thursday, January 20, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J.; and Richard H. Sandvik, Deputy Clerk.

A103943 County of Alamenda

v.

Benjamin Tagle;

Deborah Wilson

Cause called and argued by Deborah Wilson, appellant in pro per, and by Sharon Quinn, counsel for respondent. Cause ordered submitted.

A105924 The People

v.

Joseph Henry Brockett

Cause called and argued by Carolyn J. Fershtman, counsel for appellant, and by Allan Yannow, counsel for respondent. Cause ordered submitted.

A106171 Farmers Insurance Exchange et al.

v.

Robert Allen

Cause called and argued by Philip C. Snell, counsel for appellant, and by Lisa R. Jaskol, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Justice Gemello left the bench and Justice Stevens joined the bench.

A105215 United Airlines et al.

v.

The Workers' Compensation Appeals Board;

Sondra L. Conner

Cause called and argued by Norman Gordon, counsel for petitioner and William W. Koepdke amicus curiae in support of petitioner, and by Elliot S. Berkowitz, amicus curiae in support of respondent. Cause ordered submitted.

A105689 In re Omar Garcia, On Habeas Corpus

Cause called and argued by Pamela B. Hooley, counsel for appellant, and by Barry K. Newman, counsel for respondent. Cause ordered submitted.

A102839 Budget Rent-A-Car Corporation

v.

Always Trying, Inc.

Cause called and argued by Jennifer S. Cohn, counsel for appellant, and by Michael K. Johnson, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Just Simons exited the bench and Justice Gemello joined the bench for the remainder of the cases.

A105953 Creditors Trade Association Inc.

v.

Elilibrium et al.

Cause called and argued by William S. Weisberg, counsel for appellant, and by Craig Miller, counsel for respondent. Cause ordered submitted.

A105824 Peter Bulletti

v.

Home Depot

Cause called and argued by Peter Bulletti, appellant in pro per arguing via teleconference, and by Paul Morgan Bessette, counsel for respondent. Cause ordered submitted.

A100999 Charles Edward Lepp et al.

v.

County of Lake

Cause called and argued by Richard J. Massa, counsel for appellant, and by Terence J. Cassidy, counsel for respondent. Cause ordered submitted.

Court recessed at 11:55 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

A104114 Rolfe Winkler

v.

Douglas Smyth

Cause called and argued by William J. O'Connor, counsel for appellant, and by Jason T. Weintraub, counsel for respondent. Cause ordered submitted.

A104391 The People

v.

Dennis Baca Abeyta

Cause called and argued by Tara M. Mulay, counsel for appellant, and by Joan Killeen, counsel for respondent. Cause ordered submitted.

Court adjourned at 2:14 p.m.

Friday, January 21, 2005

Division One

A106149 -- Ashley Latteri v. Oakmont Memorial Park

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J.
(Not for Publication.)

A101791 -- State Farm Mutual Automobile Insurance Company, et al. v. John W. Wier et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Three

A107739 -- In re James D., a Person Coming Under the Juvenile Court Law. The People v. James D.

The order is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A106123 -- Gregory Van Oss v. Kimberly Van Oss.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J.
(Not for Publication.)

A107506 -- The People v. James Ray Washington.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J.
(Not for Publication.)

A104033 -- The People v. Mark Nelson.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Friday, January 21, 2005 (continued)

Division Four

A102653 -- Dolores Gamba v. Lisa Mini et al.

The judgment is affirmed. The parties shall bear their own attorney fees and costs incurred on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

Division Five

A108503 -- Donald S. v. The Superior Court Of Contry Costa County; Contra Costa County Department Of Social Service.

The order to show cause is discharged, and the petition is denied on its merits. (Cal. Const., art. VI, § 14; former Cal. Rules of Court, rule 39.1B(o) (now rule 38.1(h)(1)); *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (l).) Because the section 366.26 hearing is set for February 16, 2005, our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(b)(3).) Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A103667 -- The People v. Anthony Nicholas Malone.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A106542 -- In re Haley K., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Brian K.

The order is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

A105237 -- The People v. Eddie Lee Jackson.

The order is affirmed. Gemello, J. We Concur: Stevens, Acting P.J., Simons, J. (Not for Publication.)

Friday, January 21, 2005 (continued)

**A106152 -- In re Devin O., a Person Coming Under the Juvenile Court Law.
The People v. Devin O.**

The juvenile court's dispositional order is modified to specify that appellant's maximum period of confinement is eight years and he is entitled to 202 days of predisposition custody credit. The order is otherwise affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Monday, January 24, 2005

Division One

A106201 -- Geoffrey V. White v. Gabe Hammon.

The judgment is affirmed. Costs of appeal are awarded to plaintiff. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Two

A105340 -- In re I.G., a Person Coming Under the Juvenile Court Law. San Francisco County Department of Human Services v. I.G., Bonnie C. et al.

The juvenile court's order bypassing a section 366.26 hearing and placing I.G. in long-term foster care is reversed. The matter is remanded to the juvenile court for proceedings consistent with this opinion. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A101667 -- The People v. Lydell Lamont Benjamin.

The judgment is modified to reflect an award of 322 days of actual local time credit and 160 days of local conduct credit for a total presentence custody credit of 482 days. The trial court is directed to prepare an amended abstract of judgment reflecting this modification, and to send a certified copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A107296 -- The People v. Anthony Vincent Passer.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J. (Not for Publication.)

Monday, January 24, 2005 (continued)

Division Four

A106257 -- The People v. Ramon Broadus Howell, Jr.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Tuesday, January 25, 2005

Division Two

**A105348 -- In re Tony J., a Person Coming Under the Juvenile Court Law.
The People v. Tony J.**

Accordingly, we affirm the juvenile court's disposition of this matter. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A105991 -- The People v. Luther Marion Fryman.

Our independent review reveals no issues requiring briefing. The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A103286 -- The People v. Gregory Anthony Powell.

The sentence imposed is vacated and the matter remanded to the trial court for reconsideration of its sentence, more specifically (1) its imposition of the upper terms on count I and the personal use of a firearm enhancement in light of *Blakely* and (2) whether appellant is entitled to any presentence custody credits. Otherwise, the judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Five

A102988 -- The People v. Jeffrey Paul Roe.

The sentence on count 2 of case No. CR111481 is ordered stayed pursuant to Penal Code section 654. The judgments in case Nos. CR110669 and CR111481 are otherwise affirmed. The case is remanded to correct the abstract of judgment in case No. CR111481. (See fn. 4, *ante*.) Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, January 25, 2005

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Kay, P.J., Reardon, J., and Sepulveda, J.; Channing Hoo, Deputy Clerk; CHP Officer Aron Ching, Bailiff.

A103990 Union Pacific Railroad Company
 v.
 Santa Fe Pacific Pipelines, Inc.
Cause called. Thomas Winfield argued for appellant Union. Neil M. Soltman argued for respondent. Cause submitted.

A105542 R. Bryan Jamar et al.
 v.
 Anne McGivern et al.
Cause called. Marshall Bluestone argued for appellants McGivern et al. Stephen L. Barbose argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Reardon, J., and Rivera, J.

A105264 People
 v.
 Dana Alan Bray
Cause called. Dennis P. Riordan argued for appellant Bray. Martin S. Kaye argued for respondent. Cause submitted.

A106077 Goodrich Corporation
 v.
 Autoliv ASP, Inc. et al.
Cause called. Stanley W. Smith argued for appellants Autoliv et al. David W. Post argued for respondent.

A106817 Verada Reynolds

v.

One Legal, Inc.

Cause called. Christopher Keller argued for appellant Reynolds. Bruce McArthur argued for respondent.

The Court recessed at 11:50 a.m.

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, January 25, 2005

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kay, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Vincent Chambers, Bailiff.

A097708 Eric C. Hsu et al.
A097974 v.
A098305 Semiconductor Systems, Inc. et al.
Causes called. J. Daniel Sharp argued for appellants Semiconductor et al. Richard I. Yankwich argued for respondents Hsu et al. Causes submitted.

At this point, the Court reconstituted itself to include Kay, P.J., Reardon, J. and Sepulveda, J.

A106199 Californians for Disability Rights
v.
Mervyn's California, Inc.
Cause called. James C. Sturdevant argued for appellant Californians. David McDowell argued for respondent. Cause submitted.

The Court adjourned at 2:41 p.m.

STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 26, 2005

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness P.J., Corrigan J., Pollak J., and C. Turner, Deputy Clerk.

A107196 The People,

v.

Darin Lee Shropshire,

Cause called and argued by Leonard Jay Klaif, counsel for appellant, and
Martin Kaye, counsel for respondent.

Cause ordered submitted.

A104952 Gisela Tangui,

v.

Nordstrom, Inc., et al.

Cause called and argued by Christopher B. Dolan, counsel for appellant, and
Michael F. Boomer, counsel for respondent.

Cause ordered submitted.

A105287 Terry Troppman,

v.

Steven Gourley,

Cause called and argued by Raymond Wesley Hamilton, counsel for
appellant, and John Alexander Halley, counsel for respondent.

Cause ordered submitted.

Justice Parrilli took her place on the bench.

Justice McGuiness announced that the panel for A101811 The People v. Diaz
is comprised of Parrilli, J., Corrigan, J., and himself.

A101811 The People,

v.

Miguel Enrique Diaz,

Cause called and argued by James Kyle Gee, counsel for appellant, and
Gregg E. Zywicke, counsel for respondent.

Cause ordered submitted.

Justice McGuiness announced that the panel for A102874, CFS Financial v.

Services Alliance Systems is comprised of Parrilli, J., Pollak, J., and himself.

A102874 CFS Financial Systems, Inc.,
v.
Services Alliance Systems, Inc.,
Cause called and argued by Kenneth P. Gray, counsel for appellant, and John
Hugh Dresslar, counsel for respondent.
Cause ordered submitted

Justice MCGuinness left the bench.

A100606 Noreen Cardinale,
A101914 v.
Daniel R. Miller, Jr.,
Cause called and argued by Alan Charles Dell'Ario, counsel for appellant,
and Martha Louise Caron counsel for respondent.
Cause ordered submitted.

A101683 The People,
v.
Laurence Charles Campbell,
Cause called and argued by Alan Charles Dell'Ario counsel for appellant,
and David H. Rose, counsel for respondent.
Cause ordered submitted.

A104808 Norma C.,
v.
Jeffrey B.,
Cause called and argued by John Edmund Jones, counsel for appellant, and
Eileen Kotler, counsel for respondent.
Cause ordered submitted.

A103684 Gary Gresher,
v.
Eloise Anderson,
Cause called and argued by Peter Sheehan, counsel for appellant, and
Teresa L. Stinson, counsel for respondent.
Cause ordered submitted.

Court adjourned

Wednesday, January 26, 2005

Division One

A105175 -- The People v. Joseph Wells.

The trial court's ruling dismissing the complaint is reversed, and the case is remanded to the superior court for further proceedings consistent with this decision. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

A107757 -- The People v. Carl Lee Houle.

We find no arguable issues that require further briefing and accordingly, affirm the judgment. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A103459 -- The Roman Catholic Welfare Corporation of San Francisco v. Steven Bendinelli et al.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A107363 -- The People v. Barbara Sue Allison.

The judgment is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A100436 -- The People v. Ali Foroutan.

The order denying appellant's section 1016.5 motion is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Wednesday, January 26, 2005 (continued)

A101159 -- The People v. Ali Foroutan.

The unlawful use of an access card conviction (count 4) is reversed. The remaining convictions are affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

A105685 -- In re R.D., JR. and A.D., a Persons Coming Under the Juvenile Court Law. Mendocino County Department Of Social Services v. R.D., SR.

The orders denying father's section 388 petitions and terminating his parental rights are affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A106488 -- In re D.R. and J.R., a Persons Coming Under the Juvenile Court Law. Solano County Health & Social Service Department v. C.D.

The orders terminating parental rights are vacated and the matter is remanded to the juvenile court with directions to hold a new hearing, with notice to Mother, to determine whether the Department had made proper inquiry and complied with the notice provisions of the ICWA. If, after such hearing and any further inquiries, D. R. and J. R. are determined to be Indian children, the juvenile court is ordered to conduct a new section 366.26 hearing in conformity with the ICWA. If D. R. and J. R. are determined not to be Indian children, all previous findings and orders shall be reinstated. Rivera, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

A107046 -- In re Denisha A., a Person Coming Under the Juvenile Court Law. The People v. Denisha A.

The disposition order is affirmed. Reardon, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A104997 -- The People v. James Otis Turner.

The judgment is affirmed. Simons, J. We Concur: Stevens, Acting P.J., Gemello, J. (Not for Publication.)

Thursday, January 27, 2005

Division One

**A106803 -- In re Lucy S., a Person Coming Under the Juvenile Court Law.
The People v. Lucy S.**

The jurisdiction and disposition orders are affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

**A104359 -- Milton McKenzie Investment Corporation v. State Board Of
Equalization.**

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

**A105474 -- In re J.B., a Person Coming Under the Juvenile Court Law.
Alameda County Social Services Agency v. Veronica C.; J.B.**

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A102310 -- The People v. Michael Thomas Gorman.

The matter is remanded for resentencing on the burglary conviction pursuant to *Blakely, supra*, 542 U.S.____. In all other respects, the judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A105105 -- The People v. Thomas James Turley.

A108085 -- In re Thomas James Turley, on habeas corpus.

The judgment is affirmed. Defendant's petition for habeas corpus is denied. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

Thursday, January 27, 2005 (continued)

A104126 -- In re Elijah S., a Person Coming Under the Juvenile Court Law. Hearst Corporation, et al. v. San Mateo County Human Services Agency.

A104127 -- In re Savannah R., a Person Coming Under the Juvenile Court Law. Hearst Corporation, et al. v. San Mateo County Human Services Agency.

In sum, we hold that under section 827, subdivision (a)(2), the juvenile court has jurisdiction and exclusive authority to order the disclosure of juvenile records pertaining to a deceased child who came within the jurisdiction of the juvenile court as set out in Section 300, regardless of whether or not a juvenile dependency petition pursuant to section 332 had been filed prior to or concurrently with the filing of the request for disclosure under section 827. The juvenile court did not abuse its discretion in granting the requests for disclosure made in this case, subject to its review of the relevant records in camera and their redaction of any information that might affect the rights and interests of third parties mentioned in the documents.

The order of the juvenile court is affirmed. The stay previously issued by this court shall be dissolved upon issuance of the remittitur. Each party shall pay its own costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Certified for Publication)

A102396 -- The People v. Edwin Valle.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A104569 -- The People v. Michael Francis Donohoe.

The conviction for battery on count two is vacated, as it is a necessarily included offense to appellant's conviction under count one for inflicting corporal injury on a spouse. The judgment is otherwise affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Thursday, January 27, 2005 (continued)

A106664 -- Estate of D’Jean P. Reed, Deceased. Starla Gales v. James Reed.

The summary judgment is reversed. The case is remanded to the probate court with directions to deny the Estate’s motion for summary adjudication that the form of title to the Danville property at the time of decedent’s death was tenancy in common between decedent and Reed, and for further proceedings consistent with this opinion. Appellant Reed shall recover costs incurred on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A108144 -- The People v. Alejandro Francisco Arguelles.

Judgment affirmed. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A105824 -- Peter Bulletti v. Home Depot et al.

The judgment is affirmed. Defendant’s request for sanctions is denied. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A105797 -- Gregory R. Brown et al. v. Old Republic Title Company.

The judgment is reversed. Plaintiffs shall recover their costs incurred for this appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A104114 -- Rolfe Winkler v. Douglas Smyth.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A100963 -- The People v. Anthony Washington.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A102695 -- Philip Von Burg v. Catherine Scarborough.

The judgment is affirmed. Gemello, J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Friday, January 28, 2005

Division One

A105918 -- The People v. Alvin Williams Spade.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A106007 -- In re James A., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau Of Children And Family Services.

The order terminating Father's parental rights is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Two

A105857 -- Javier Rice-Trujillo v. Department Of Motor Vehicles.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Four

A102838 -- The People v. Morena Antonia Barahona.

The judgment is affirmed. Sepulveda, J. We Concur: Kay, P.J., Rivera, J. (Not for Publication.)

Division Five

A104442 -- The People v. Richard Neyman.

The judgment of conviction is affirmed. Stevens, J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

Friday, January 28, 2005 (continued)

A106886 -- In re Andrew C., a Person Coming Under the Juvenile Court Law. The People v. Andrew C.

The orders of the juvenile court are affirmed. Stevens, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

A105689 -- In re Omar Garcia on Habeas Corpus.

The order granting Garcia's writ of habeas corpus is reversed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A107403 -- The People v. Eddie Lee Jackson, Jr.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, January 31, 2005

Division One

A101956 -- In re Nyala W. et al., a Persons Coming Under the Juvenile Court Law. Marin County Department Of Health & Human Services v. Winnfred Wright et al.

On the court's own motion, rehearing is granted. Marchiano, P.J.

A104324 -- Janet Robbins v. Joseph Alibrandi et al.; Angelo Perone et al.

By the Court: Submission of the above-entitled cause is vacated on the grounds that further consideration of the merits of the issues raised on appeal is required. The cause is hereby ordered resubmitted. Marchiano, P.J.

Division Two

A105345 -- In re Joshua L., a Person Coming Under the Juvenile Court Law. The People v. Joshua L.

A105948 -- The People v. Kirsten C.

With respect to Joshua L.'s appeal, the juvenile court's orders are affirmed. Kirsten C.'s appeal is dismissed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A103447 -- The People v. Charles Morse.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

Division Three

A102874 -- CFS Financial Systems, Inc. v. Services Alliance Systems, Inc.

The post-judgment order appealed from is affirmed. Appellant shall pay respondent's costs on this appeal. McGuinness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication.)

A107196 -- The People v. Darin Lee Shropshire.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Pollak, J.
(Not for Publication.)

A104952 -- Gisela Tangui v. Nordstrom, Inc. et al.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Corrigan, J.
(Not for Publication.)

A105691 -- The People v. Ronny Boyce Forman.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Pollak, J.
(Certified for Publication)

A100606 -- Noreen Cardinale v. Daniel R. Miller, Jr.

A101914 -- Noreen Cardinale v. Daniel R. Miller, Jr.

The judgment is affirmed. Corrigan, Acting P.J. We Concur: Parrilli, J., Pollak, J.
(Not for Publication.)

A104808 -- Norma C., v. Jeffrey B.

The judgment is affirmed. Pollak, J. We Concur: Corrigan, Acting P.J., Parrilli, J.
(Not for Publication)

Division Four

A106393 -- The People v. Joe Elton Mosley.

The judgment is affirmed. Rivera, J. We Concur: Kay, P.J., Reardon, J. (Not for Publication.)

A104469 -- Jeffrey Coriell et al. v. Gamestop Corporation et al.; Ryan Williams.

The judgment and order are affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A100574 -- The People v. Royce Ford, Jr.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A105264 -- The People v. Dana Alan Bray.

The judgment of conviction is affirmed. Kay, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

A107790 -- The People v. LeRoy Vance.

The judgment is affirmed. Kay, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A105542 -- R. Bryan Jamar et al. v. Anne McGivern et al.

We reverse the judgment. Reardon, J. We Concur: Kay, P.J., Sepulveda, J. (Not for Publication.)

Division Five

A104281 -- The People v. Anthony Oliver.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)